

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: NEW ENGLAND COMPOUNDING
PHARMACY, INC. PRODUCTS LIABILITY
LITIGATION

MDL No. 2419
Master Dkt.: 1:13-md-02419-FDS

THIS DOCUMENT RELATES TO:

All Actions

**AFFIDAVIT OF BRIAN OSBORNE OF RUST CONSULTING OMNI BANKRUPTCY
WITH RESPECT TO ORDER GRANTING PLAINTIFFS LEAVE
TO SERVE SUBPOENAS AND QUALIFIED PROTECTIVE
ORDER REGARDING PROTECTION OF HEALTH INFORMATION**

BRIAN OSBORNE, being duly sworn, deposes and says under penalty of perjury as follows:

1. I am the president of Rust Consulting Omni Bankruptcy ("Rust Omni"), a division of Rust Consulting, Inc. ("Rust Consulting"), the third party vendor selected jointly by the Plaintiffs' Steering Committee, the chapter 11 trustee appointed in NECC's chapter 11 case (the "Trustee"), and the Official Committee of Unsecured Creditors appointed in NECC's chapter 11 case (the "Official Committee"), to assist with the procurement, processing and management of protected health information in the New England Compounding Pharmacy, Inc. ("NECC") MDL No. 2419 matter. I am authorized to submit this certification on behalf of Rust Omni. Unless otherwise stated in this affidavit, I have personal knowledge of the facts hereinafter set forth, and if called as a witness, could and would testify completely thereto.

2. Rust Omni and Rust Consulting have had significant experience handling and securing "Personal Health Information," and "individually identifiable health information" protected under the Health Insurance Portability and Accountability Act of 1996 (hereinafter "HIPAA") (42 USC §1320d et seq.) and the regulations promulgated thereunder (45 CFR §§160,

164 et seq.). Rust Omni and Rust Consulting have handled such HIPAA related documents and information as a Court approved agent in the following matters:

- In Re Pharmaceutical Industry Average Wholesale Price Litigation, MDL 1456, United States District Court For The District Of Massachusetts;
- In Re Bextra And Celebrex Marketing, Sales Practices And Product Liability Litigation, MDL 1699, United States District Court Northern District Of California;
- In Re Owens Corning, LLC, Case No. 00-03837 (JKF), United States Bankruptcy Court District Of Delaware;
- In Re W.R. Grace, Case No. 01-01139 (JFK), United States Bankruptcy Court District Of Delaware;
- In Re Artra Group, Ltd. , Case No. 02-A 01086, United States Bankruptcy Court Northern District Of Illinois, Eastern Division;
- In Re Christian Brothers Institute, Case No.: 11-22820 (RDD), United States Bankruptcy Court For The Southern District Of New York;
- In Re Society of Jesus, Oregon Province, Case No. 09-3093, United States Bankruptcy Court District Of Oregon;
- In Re Downey Regional Medical Center, Case No. 2:09-bk-34714-SB, United States Bankruptcy Court Central District Of California.

3. I have reviewed the “Order Granting Plaintiffs Leave To Serve Subpoenas And Qualified Protective Order Regarding Protection Of Health Information” (the “Order”) and Rust Omni is qualified to meet the Orders obligations.

4. Rust Omni shall hold such protected health information in the strictest confidence and shall not release such information to any other person or entity until further order of the Court.

5. In the case of electronic data, Rust Omni shall maintain the obtained protected health information on a server that is housed in a data center secured and hardened against unauthorized access or download, including unauthorized access via the Internet or any wireless device. The information obtained in electronic form pursuant to the subpoenas shall be

loaded to a database that is password-protected and encrypted. Rust Omni shall maintain similar protections against unauthorized access to any protected information produced in hard copy

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

By:

Brian Osborne
Rust Consulting Omni Bankruptcy

STATE OF CALIFORNIA

)

) $SS:$

COUNTY OF LOS ANGELES

)

Subscribed, sworn to and acknowledged before me by Brian K. Osborne,
_____ on the 2nd day of July, 2013.

Notary Public

My Commission Expires:

